

**FREDERICK COUNTY  
DEVELOPMENT REVIEW OUTREACH MEETING**

**Session # 45**

**30 North Market Street, Training Room**

**October 23, 2009 - 9:00am**

**MEETING MINUTES**

**Prior Meeting Minutes:** Minutes from the previous meeting and the current agenda were available to the group. These items are posted on the website ([www.frederick.co.md](http://www.frederick.co.md)) for this and subsequent meetings. NOTE: These minutes follow the agenda as distributed; open discussion items are included at the end of these minutes.

**Staff Present:** Gary Hessong, Director, DPDR; Betsy Smith, Deputy Director, DPDR; Kathy Hall, Engineer DPDR; Vijay Kapoor, Project Planner, Engineer DPDR; Dave Crable, Project Manager, Engineering DPDR; Mark Depo, Deputy Director, Planning; Justin Horman, Zoning Planner, DPDR; Ron Burns, Traffic Engineer, DPDR; Mike Wilkins, Environmental Planner, DPDR and Linda Williamson, Development Review Technician, DPDR

Betsy Smith, Deputy Director, DPDR -Opened meeting with asking everyone if they have not signed up for the Development Review outreach List Serve to please do, Outlook will no longer be used as a distribution list as of January 2010.

**Justin Horman-**

1. Site Plan Process Changes- On web go to Ordinances/ 2009 Ordinances/ 09-22-526-

Ordinance 09-22-526

<http://www.frederickcountymd.gov/DocumentCenterii.aspx?FID=10>

- a. Type I – Planning Commission Approval
- b. Type II- Limited- Staff level approval (multiple agencies)
- c. Type II-Administrative- Staff level (only Development Review Planning Staff)

Justin suggested that if an applicant is uncertain as to which type of site plan they should apply for to contact DPDR prior to submission.

**Mike Wilkins-**

2. FRO changes- Update

<http://www.frederickcountymd.gov/documents/Ordinances/2009%20Ordinances/09-26-530.PDF>

Informed outreach meeting that the BOCC adopted new FRO regulations, effective October 1, 2009. The following changes were adopted:

- 1. Lowers the exemption threshold for activity conducted on a single lot of record or linear project from 40,000 square feet to 20,000 square feet. This means that single lot exemptions may only be granted

when 20,000 square feet or less of forest is removed, and linear projects can be exempted from FRO mitigation requirements only when 20,000 square feet or less of forest is removed.

- 2. Amends the intrafamily exemption applicability to owner or child (eliminating grandchild) and lowers the threshold of activity from 40,000 square feet to 20,000 square feet. This means that intrafamily exemptions may only be granted when 20,000 square feet or less of forest is removed, and the lot is being created with the purpose of building a single family house for the owner or the child of the owner.
- 3. Removes exemption for areas “previously developed and covered by paved surface”. This means that FRO mitigation is required when any existing developed site is being redeveloped. The only exceptions to this is redevelopment of a site previously mitigated for FRO, and change of use site plans where no new construction or earth disturbance is proposed.
- 4. Separates the current priority retention areas into two separate categories with different levels of protection. The following priority areas must be retained. **Failure to retain these shall be deemed a modification requiring notification to DNR and approval by the FcPc.**

A -Hydrologically-sensitive areas, including the 100 year floodplain and all other floodplains listed in the Zoning Ordinance, streams and their buffers; steep slopes (25%) contiguous to or within 50 feet of hydrologically- sensitive areas; and wetlands;

B- Forest segments that connect large forested or heavily vegetated tracts of land within or adjacent to the site;

C- Areas that contain trees, shrubs, or plants identified as rare, threatened, or endangered

D- Critical habitat areas for sedentary animal species; identified as threatened, endangered or in-need-of-conservation

E- nonhazardous trees that: are part of a historic site, are associated with a historic structure, have been designated by the state or the department as a national, state, county, or municipal champion tree, are specimen trees, or are 75 percent or more of the diameter of the current state champion tree of that species as designated by the department of natural resources.

-Forest areas that buffer noncompatible land uses, and other forest deemed worthy of conservation by the department, may be removed with approval at Staff level only after the applicant has demonstrated to the satisfaction of the Department that reasonable efforts have been made to protect them AND THAT THE PLAN CANNOT REASONABLY BE ALTERED.

- 5. Modifies the acceptable uses for fee-in-lieu to include maintenance of existing forest areas that are under a long term protective agreement (easement), and for achieving state and local government urban canopy goals.

Grandfathering Provisions:

(1) The amendments and revisions to the FRO enacted by this Ordinance shall apply to:

(a) Any Forest Stand Delineation, Preliminary Forest Conservation Plan, Final Forest Conservation Plan, or any combination thereof, and any exemption application, received by DPDR for approval, reapproval, or extension on or after the effective date of this Ordinance.

(b) Any revised Forest Stand Delineation, Preliminary Forest Conservation Plan, Final Forest Conservation Plan, or any combination thereof, and any exemption application, received by DPDR for approval, reapproval, or extension on or after the effective date of this Ordinance.

(2) The provisions of the FRO as they existed before the adoption of this Ordinance shall apply to:

(a) Any Forest Stand Delineation, Preliminary Forest Conservation Plan, Final Forest Conservation Plan, or any combination thereof, and any exemption application, received by DPDR for approval, reapproval, or extension before the effective date of this Ordinance.

(b) Any revised Forest Stand Delineation, Preliminary Forest Conservation Plan, Final Forest Conservation Plan, or any combination thereof, and any exemption application, received by DPDR for approval, reapproval, or extension before the effective date of this Ordinance.

**Ron Burns-** Informed outreach meeting of changes to APFO

3. APFO- conditions under which exemption applications may be filed.

- a. Previously approved
- b. Non-qualifying use
- c. No net trip increase

**Exemption vs. APFO Application**

- 1. Exemption applications may only be accepted if the application is truly exempted by ordinance from having to pass APFO. This would generally include minor residential subdivisions and police/fire stations, and any site plan where APFO was approved during prior application approval.
- 2. In the latter case (approved on another application), the exemption form must be accompanied by a "trip scorecard" showing available trip capacity for the site plan.
- 3. The Trip Scorecard would apply to all peak hours and be calculated as follows: (Trips approved at Subdivision) – (Trips from each site plan, approved and pending approved) = Reserve Capacity (RC). The RC must be equal or greater than the application's trips for each peak hour.
- 4. Exemptions would also include all revised site plans that come in with no additional trips above what was assumed or capped, or any change of use site plan that does not exceed either the stated or assumed limits, if it once came under APFO, or the trips generated by the previous use.
- 5. If not exempt, applicants need to use the APFO application, with the \$220 fee, which would include either a Traffic Impact Analysis (TIA), a Traffic Brief explaining why they are under the 25/50 trip threshold, or a description of the project with a note or sign off from the traffic engineer finding that it is under the 25/50 threshold.

#### DOL/LOU

1. DOL's are no longer required under the new APFO
2. LOU's are to be negotiated and signed by the applicant prior to the release of signs.
3. LOU's will be attached to the staff report

#### Mark Depo-

4. Discussed Zoning updates- Text Amendments
  - a. Administrative Requirements
  - b. Site Plan Process-created in the ordinance, Site Plan – no longer a six(6) month extension, Site Plan is now a 3 yr approval
  - c. Landscaping, Lighting, Parking
  - d. MXD/PUD Zoning Districts- Replace “planned developments” in ordinance with a Euclidean zoning that only requires a 1 step process.
  - e. Signage Ordinance is being completely updated

#### Betsy Smith-

1. SWM MD2007 – Update  
<http://www.mde.state.md.us/Programs/WaterPrograms/SedimentandStormwater/swm2007.asp>

Betsy stated that the staff is currently working to have FRO and SWM to follow the same path. All projects not approved by May 4, 2010, will be subject to the new laws. The new review process will be a 3 plan process.

1. Concept
2. Site(SWM) Development
3. Construction

DPDR, Engineering is obligated to send a draft ordinance to MDE by November 11, 2009. DPDR has identified 6 possible sections of the Frederick County Code that may need to be revised as a result of new SWM.

MDE has stated there will be NO grandfathering

The sediment control regulations will also be updated, MDE is currently working on these comments.

January or February DPDR and Permits will hold a joint Outreach meeting to discuss SWM regulations only.

DPDR Engineering will try to get out to the Outreach community a draft copy before the November 11<sup>th</sup> deadline

Gary Hessong- Stated DPDR Engineering would work within a reasonable schedule to try and make the process work, but he could not make any guarantees.

**Open Discussion:**

John Mazelon- What constitutes a signed approved plan? Concerned the development community will not be able to give input

Kraig Walsleben –Can plans be reauthorized?

Staff- Uncertain at this time, will be included in the draft

David Denny- How will building permit application for a single lot be addressed?

Staff- This will be included in the draft ordinance

Noel Milano- Should developers go directly to MDE with concerns

Staff- That is up to the development community. If they feel they want to they can butt staff will not promote.

Bruce Dell- what about redevelopment will it be affected

Carl Thomas-what are the submittal requirements going to be, will minors with a common driveway be affected

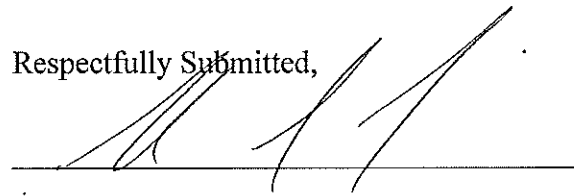
Staff- These issues will be addressed both by the code and the process as to ..... In the next several months.

Frank Bossong- Wrote the letter representing the development community, met with the secretary and governor he invited people to talk with him about what he knows. Montgomery County has made an agreement that a developer submits a plan by a certain time they will get the plan approved before the new law.

Meeting adjourned at 10:25 a.m.

Next Meeting: Friday, January 22, 2010

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'Betsy Smith', is written over a horizontal line.

Betsy Smith, Deputy Director DPDR

